

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

National Labor Relations Board,

Petitioner,

v.

Appeal No. 16-15955-F
Agency Docket No. 12-CA-146110

Victory II, LLC D/B/A Victory
Casino Cruises II,

Respondent.

**RESPONDENT'S ANSWER TO APPLICATION
FOR ENFORCEMENT OF AN ORDER
OF THE NATIONAL LABOR RELATIONS BOARD**

Respondent, Victory II, LLC D/B/A Victory Casino Cruises II (“Victory II”), pursuant to Fed. R. App. P. 15(b), answers the National Labor Relations Board’s (“NLRB”) application for enforcement as follows:

On or about April 22, 2016, the NLRB issued its order in Board Case No. 12-CA-146110, reported at 363 NLRB No. 167 (“NLRB Order”). The NLRB Order required Victory II to cease and desist from: (1) maintaining a mandatory arbitration agreement that employees reasonably would believe bars or restricts the right to file charges with the National Labor Relations Board; (2) Maintaining a mandatory arbitration agreement that requires employees, as a condition of employment, to waive the right to maintain class or collective actions in all forums, whether arbitral or judicial; and (3) Maintaining a confidentiality/non-disclosure

hand-book rule that prohibits employees from discussing with nonemployees or among themselves, information relating to their wages, hours, and other terms and conditions of employment; (4) Maintaining a mandatory confidentiality agreement that prohibits employees from discussing with nonemployees or among themselves, wages, hours, and other terms and conditions of employment; and (5) In any like or related manner interfering with, restraining or coercing employees in the exercise of rights guaranteed by Section 7 of the Act.

The NLRB has filed this application to enforce the NLRB Order.

Victory II opposes this application in part, and suggests that the remaining portions are moot. More specifically, Victory opposes only the portions of the order to cease and desist from items (1) and (2), which seek to prevent Victory II from requiring its employees to sign an agreement to arbitrate their employment related disputes and to do so individually, waiving any right to arbitrate or litigate such claims on a class-wide basis.

Victory II suggests that the remaining portion of the NLRB's order are rendered moot in that Victory II rescinded the confidentiality agreement and revised the confidentiality policy to remove any reference to any wages, discipline and personnel information. Victory's current confidentiality policy makes no reference to categories of information that involve information about employees, their wages or working conditions. This confidentiality agreement and policy

were the subject of the remaining portion of the NLRB's Order, were the only basis for the remaining portions of the NLRB Order and Victory II actions in rescinding its confidentiality agreement and revising its confidentiality policy render enforcement of that portion of the order moot.

Other than requiring Victory to revise or rescind its confidentiality agreement and policy, both of which have been accomplished consistent with the NLRB's Order, Victory II opposes the NLRB's Order in all other respects and denies that the NLRB is entitled to the relief it seeks in its NLRB Order.

This Court has jurisdiction over the NLRB's application pursuant to Section 10(e) of the National Labor Relations Act, as amended, 29 U.S.C. § 151, 160(e). Venue is proper in this Circuit because the alleged unfair labor practices occurred in Jacksonville, Florida.

Dated this 4th day of October, 2016.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
document was served by regular U.S. Mail this 4th day of October, 2016 upon:

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/s/ D. Andrew Byrne
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